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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,252	08/01/2003	Kwok Kuen Tong	477/I/ 003	3297
170	7590	10/04/2005	EXAMINER	
RICHARD M. GOLDBERG 25 EAST SALEM STREET SUITE 419 HACKENSACK, NJ 07601			WILLATT, STEPHANIE L	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/632,252

Applicant(s)

TONG, KWOK KUEN

Examiner

Stephanie L. Willatt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,7 and 10-14 is/are rejected.
- 7) ☒ Claim(s) 2,4-6,8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1 August 2003
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3, 7, and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by McCambridge et al. (US 6,920,886 B2).

McCambridge et al. disclose a hair curling iron and shaping tool comprising a handle (grip portion 38), a first elongated member (second leg 20), a second elongated member (first 18), and a curved elongated member (clamp 64). A first elongated member (second leg 20) connected with the handle (grip portion 38) and having a first surface (planar surface 42) with a first profile. A first heating element for heating the first elongated member (second leg 20), as described in column 3, lines 29-31. A second elongated member (first leg 18) is pivotally connected relative to the first elongated member (second leg 20).

The second elongated (first leg 18) includes a second surface for mating with the first surface (planar surface 42) in order to shape hair placed therebetween in a predetermined manner defined by the first and second surfaces. The second surface

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(planar surface 42) has a profile complementary to the profile of the first surface and a curved surface (semicircular surface 44). A second heating element heats the second elongated member (first leg 18), as discussed in column 3, lines 29-31. A curved elongated member (clamp 64) is pivotally connected relative to the second elongated member (first leg 18) for engaging with the curved surface (semicircular surface 44) of the second elongated member (first leg 18).

A first lever (handle 72) actuates the curved elongated member (clamp 64) to pivot the curved elongated member (clamp 64) away from the second elongated member (first leg 18). A second lever (pivoting portion 36) actuates the second elongated member (first leg 18) to pivot the second elongated member (first leg 18) and the curved elongated member (clamp 64) together away from the first elongated member (second leg 20). Regarding claim 3, the first lever (handle 72) is fixedly connected with the curved elongated member (clamp 64) and the second lever (pivoting portion 36) is fixedly connected with the second elongated member (first leg 18). Regarding claim 7, the first lever (handle 72) and the second lever (pivoting portion 36) each have a free end with a head (protective cap 74 and the head adjacent button 52 in Figure 3).

Regarding claim 10, a spring arrangement (springs 76, 40) is fixed relative to the handle (grip portion 38) for normally biasing the first and second levers (handle 72 and pivoting portion 36) away from the handle (grip portion 38) such that the curved elongated member (clamp 64) is normally seated on the curved surface (semicircular surface 44) of the second elongated member (first leg 18) and the second surface

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(planar surface 42) of the second elongated member (first leg 18) is normally seated on the first surface (planar surface 42) of the first elongated member (second leg 20), as discussed in column 3, lines 1-5 and column 4, lines 7-10. Regarding claim 11, the first and second elongated members (second leg 20 and first leg 1) each have a generally semi-cylindrical shape. The curved elongated member (clamp 64) includes an elongated plate having a transverse curvature.

Regarding claim 12, the first and second surfaces (planar surfaces 42) are each flat for straightening hair placed therebetween.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCambridge et al. (US 6,920,886 B2) in view of Lo (US 6,667,462 B2).

McCambridge et al. disclose the features discussed above, but not that the first and second surfaces have wave-like/zig-zag profiles. Lo discloses a hair styling iron including the option of wave-like/zig-zag profiles (sawtooth lugs 8), for producing a wavy hairstyle (column 2, lines 62-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the first and second surfaces

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of McCambridge et al. with wave-like/zig-zag profiles, as taught by Lo, in order to produce a wavy hairstyle.

***Allowable Subject Matter***

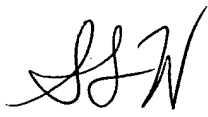
5. Claims 2, 4-6, 8, and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is (571) 272-4721. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
slw

  
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